

Part 538 - Federal Supply Schedule Contracting

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Parent topic: General Services Administration Acquisition Manual

Subpart 538.2 - Establishing and Administering Federal

Supply Schedules

538.270 Solicitation, evaluation, and award of Federal Supply Schedule (FSS) contracts.

538.270-1 Evaluation of offers without access to transactional data.

(a) *Applicability.* Utilize this evaluation methodology for negotiating MAS offers when the commercial sales practices format is included in the solicitation (see [515.408](#)).

(b) When offerors have commercial catalogs, negotiate concessions from established catalogs, including price and non-price terms and conditions.

(c) The Government will seek to obtain the offeror's best price (the best price given to the most favored customer). However, the Government recognizes that the terms and conditions of commercial sales vary and there may be legitimate reasons why the best price is not achieved.

(d) Establish negotiation objectives based on a review of relevant data and determine price reasonableness.

(e) When establishing negotiation objectives and determining price reasonableness, compare the terms and conditions of the MAS solicitation with the terms and conditions of agreements with the offeror's commercial customers. When determining the Government's price negotiation objectives, consider the following factors:

(1) Aggregate volume of anticipated purchases.

(2) The purchase of a minimum quantity or a pattern of historic purchases.

(3) Prices taking into consideration any combination of discounts and concessions offered to commercial customers.

(4) Length of the contract period.

(5) Warranties, training, and/or maintenance included in the purchase price or provided at additional cost to the product prices

(6) Ordering and delivery practices.

(7) Any other relevant information, including differences between the MAS solicitation and commercial terms and conditions that may warrant differentials between the offer and the discounts offered to the most favored commercial customer(s). For example, an offeror may incur more expense selling to the Government than to the customer who receives the offeror's best price, or the customer (*e.g.*, dealer, distributor, original equipment manufacturer, other reseller) who receives the best price may perform certain value-added functions for the offeror that the Government does not perform. In such cases, some reduction in the discount given to the Government may be appropriate. If the best price is not offered to the Government, you should ask the offeror to identify and explain the reason for any differences. Do not require offerors to provide detailed cost

breakdowns.

(f) You may award a contract containing pricing which is less favorable than the best price the offeror extends to any commercial customer for similar purchases if you make a determination that both of the following conditions exist:

(1) The prices offered to the Government are fair and reasonable, even though comparable discounts were not negotiated.

(2) Award is otherwise in the best interest of the Government.

(g) State clearly in the award document the price/discount relationship between the Government and the identified commercial customer (or category of customers) upon which the award is based.

538.270-2 Evaluation of offers with access to transactional data.

(a) *Applicability.* Utilize this evaluation methodology for negotiating MAS offers when the commercial sales practices format is not included in the solicitation (see [515.408](#)).

(b) Contracting Officers shall utilize the techniques in FAR 15.404 when evaluating pricing for MAS offers.

(c) Order of preference. When evaluating MAS offers and establishing negotiation objectives, Contracting Officers shall—

(1) Use the following data that is already readily available in accordance with FAR 15.404-1(b)(2)(ii):

(i) Prices paid information on contracts for the same or similar items.

(ii) Contract-level prices on other MAS contracts or other government-wide contracts for the same or similar items.

(iii) Commercial data sources that consolidate and normalize prices offered by commercial vendors to the general public to compare prices for the same or similar items.

(2) If the Contracting Officer cannot determine the prices offered to be fair and reasonable based on the data described in [538.270-2\(c\)\(1\)](#), perform market research to compare prices for the same or similar items in accordance with FAR 15.404-1(b)(2)(vi).

(3) If the Contracting Officer cannot determine the prices offered to be fair and reasonable based on the data described in [538.270-2\(c\)\(1\)](#) or (2), perform an analysis of data other than certified cost or pricing data (as defined at FAR 2.101) provided by the offeror in accordance with FAR 15.404-1(b)(2)(vii).

538.270-3 Use of clause fill-in information.

(a) *General.* The fill-in information required by GSAR [538.273\(e\)](#) outlines the timeframe that orders must be completed and provides for—

(1) The exercise of task and delivery order options after the FSS contract ordering period, if those options were evaluated as part of the initial award and the order is completed within the timeframe outlined in [538.273\(e\)](#);

(2) The FSS contract to remain an active contract until the final order is closed out; and

(3) The FSS contract to govern the terms and conditions with respect to active task and delivery orders (e.g., price adjustments) to the same extent as if the orders were completed during the FSS contract ordering period.

(b) *Continuity of services.* The fill-in information prescribed in [538.273\(e\)](#) does not preclude use of FAR clause 52.217-8 by ordering activities. However, the clause may only be used if the extension does not extend the cumulative term of the task order beyond the timeframe outlined in [538.273\(e\)](#).

538.271 FSS contract awards.

(a) FSS awards will be for commercial products and commercial services. Negotiate contracts as a discount from established catalog prices.

(b) Before awarding any FSS awards determine that the offered prices are fair and reasonable (see FAR Subpart 15.4 and [538.270](#)). Document the negotiation and your determination using FAR 15.406-3 as guidance.

538.272 MAS price reductions.

(a) *Applicability.* This section applies when the contract contains the basic clause [552.238-80](#) Industrial Funding Fee and Sales Reporting.

(b) The basic clause and Alternate I of [552.238-81](#), Price Reductions, requires the contractor to maintain during the contract period the negotiated price/discount relationship (and/or term and condition relationship) between the eligible ordering activities and the offeror's customer or category of customers on which the contract award was predicated (see [538.271](#)). If a change occurs in the contractor's commercial pricing or discount arrangement applicable to the identified commercial customer (or category of customers) that results in a less advantageous relationship between the eligible ordering activities and this customer or category of customers, the change constitutes a "price reduction."

(c) Ensure that the contractor understands the requirements of section [552.238-81](#) and agrees to report all price reductions to the Contracting Officer as provided for in the clause.

538.273 FSS solicitation provisions and contract clauses.

(a) As prescribed in this paragraph, insert the following provisions in the beginning of FSS solicitations:

(1) [552.238-70](#), Cover Page for Worldwide Federal Supply Schedules. Use in all FSS solicitations. Use Alternate I for single award Federal Supply Schedules.

(2) [552.238-71](#), Notice of Total Small Business Set-Aside. Use in FSS solicitations containing special item numbers (SINs) that are set aside for small business.

(3) [552.238-72](#), Information Collection Requirements. Use in all FSS solicitations.

(b)As prescribed in this paragraph, insert the following clause and provision as an addendum to 52.212-1, Instructions to Offerors—Commercial Products and Commercial Services:

(1) [552.238-73](#), Identification of Electronic Office Equipment Providing Accessibility for Individuals with Disabilities. Use only in FSS solicitations for electronic office equipment.

(2) [552.238-74](#), Introduction of New Supplies/Services (INSS). Use only in FSS solicitations allowing the introduction of new supplies/services. Note: GSA Form 1649, Notification of Federal Supply Schedule Improvement, may be required if revising a Special Item Number (SIN).

(c)As prescribed in this paragraph, insert the following provisions as an addendum to 52.212-2, Evaluation—Commercial Products and Commercial Services:

(1) [552.238-75](#), Evaluation - Commercial Products and Commercial Services (Federal Supply Schedules). Use in FSS standing solicitations.

(2) [552.238-76](#), Use of Non-Government Employees to Review Offers. Use only in FSS solicitations when non-government employees may be utilized to review solicitation responses.

(d)As prescribed in this paragraph, insert the following clauses as an addendum to Clause 52.212-4, Contract Terms and Conditions—Commercial Products and Commercial Services:

(1) [552.238-77](#), Submission and Distribution of Authorized Federal Supply Schedule Price Lists. Use in all FSS solicitations and contracts.

(2) [552.238-78](#), Identification of Products that have Environmental Attributes. Use only in FSS solicitations and contracts that contemplate products with environmental attributes.

(3) [552.238-79](#), Cancellation. Use in all FSS solicitations and contracts.

(4) [552.238-80](#), Industrial Funding Fee and Sales Reporting. Use Alternate I for Federal Supply Schedules with Transactional Data Reporting requirements. Clause [552.238-81](#) Alternate I should also be used when vendors agree to include clause [552.238-80](#) Alternate I in the contract.

(5) [552.238-81](#), Price Reductions. Use Alternate I for Federal Supply Schedules with Transactional Data Reporting requirements. This alternate clause is used when vendors agree to include clause [552.238-80](#) Alternate I in the contract.

(6) [552.238-82](#), Modifications (Federal Supply Schedules). Use in all FSS solicitations and contracts.

(i)Use Alternate I for Federal Supply Schedules that only accept eMod.

(ii)Use Alternate II for Federal Supply Schedules with Transactional Data Reporting requirements. This alternate clause is used when vendors agree to include clause [552.238-80](#) Alternate I in the contract.

(7) [552.238-83](#), Examination of Records by GSA (Federal Supply Schedules). Use in all FSS solicitations and contracts. With the Senior Procurement's Executive approval, the contracting

officer may modify this clause to provide for post-award access to and the right to examine records to verify that the pre-award/modification pricing, sales or other data related to the supplies or services offered under the contract which formed the basis for the award/modification was accurate, current, and complete. The following procedures apply:

(i) Such a modification of the clause must provide for the right of access to expire 2 years after award or modification.

(ii) Before modifying the clause, the contracting officer must make a determination that absent such access there is a likelihood of significant harm to the Government and submit it to the Senior Procurement Executive for approval.

(iii) The determinations under paragraph (9)(ii) must be made on a schedule-by-schedule basis.

(8) [552.238-84](#), Discounts for Prompt Payment. Use in all FSS solicitations and contracts.

(9) [552.238-85](#), Contractor's Billing Responsibilities. Use in all FSS solicitations and contracts.

(10) [552.238-86](#), Delivery Schedule. Use only in FSS solicitations and contracts for supplies

(11) [552.238-87](#), Delivery Prices. Use in all FSS solicitations and contracts.

(12) [552.238-88](#), GSA Advantage!®. Use in all FSS solicitations and contracts except the Department of Veterans Affairs Federal Supply Schedules.

(13) [552.238-89](#), Deliveries to the U.S. Postal Service. Use only in FSS solicitations and contracts for mailable articles when delivery to a U.S. Postal Service (USPS) facility is contemplated.

(14) [552.238-90](#), Characteristics of Electric Current. Use only in FSS solicitations and contracts when the supply of equipment which uses electrical current is contemplated.

(15) [552.238-91](#), Marking and Documentation Requirements for Shipping. Use only in FSS solicitations and contracts for supplies when the need for outlining the minimum information and documentation required for shipping is contemplated.

(16) [552.238-92](#), Vendor Managed Inventory (VMI) Program. Use only in FSS solicitations and contracts for supplies when a VMI Program is contemplated.

(17) [552.238-93](#), Order Acknowledgement. Use only in FSS solicitations and contracts for supplies.

(18) [552.238-94](#), Accelerated Delivery Requirements. Use only in FSS solicitations and contracts for supplies.

(19) [552.238-95](#), Separate Charge for Performance Oriented Packaging (POP). Use only in FSS solicitations and contracts for products defined as hazardous under Federal Standard No. 313.

(20) [552.238-96](#), Separate Charge for Delivery within Consignee's Premises. Use only in FSS solicitations and contracts for supplies when allowing offerors to propose separate charges for deliveries within the consignee's premises.

(21) [552.238-97](#), Parts and Service. Use in all FSS solicitations and contracts.

(22) 552.238-98, Clauses for Overseas Coverage. Use only in FSS solicitations and contracts when overseas acquisition is contemplated. The following clauses and provisions shall also be inserted in full text, when applicable.

(i) 52.214-34 Submission of Offers in the English Language.

(ii) 52.214-35 Submission of Offers in U.S. Currency.

(iii) 552.238-90 Characteristics of Electric Current.

(iv) 552.238-91 Marking and Documentation Requirements Per Shipment.

(v) 552.238-97 Parts and Service.

(vi) 552.238-99 Delivery Prices Overseas.

(vii) 552.238-100 Transshipments.

(viii) 552.238-101 Foreign Taxes and Duties.

(ix) 52.247-34 FOB Destination.

(x) 52.247-38 FOB Inland Carrier, Country of Exportation.

(xi) 52.247-39 FOB Inland Point, Country of Importation.

(23) 552.238-99, Delivery Prices Overseas. Use only in FSS solicitations and contracts when overseas acquisition is contemplated.

(24) 552.238-100, Transshipments. Use only in FSS solicitations and contracts when overseas acquisition is contemplated.

(25) 552.238-101, Foreign Taxes and Duties. Use only in FSS solicitations and contracts when overseas acquisition is contemplated.

(26) 552.238-102, English Language and U.S. Dollar Requirements. Use in all FSS solicitations and contracts.

(27) 552.238-103, Electronic Commerce. Use in all FSS solicitations and contracts except the Department of Veterans Affairs Federal Supply Schedules.

(28) 552.238-104, Dissemination of Information by Contractor. Use in all FSS solicitations and contracts.

(29) 552.238-105, Deliveries Beyond the Contractual Period-Placing of Orders. Use only in FSS solicitations and contracts for supplies.

(30) 552.238-106, Interpretation of Contract Requirements. Use in all FSS solicitations and contracts.

(31) 552.238-107, Export Traffic Release (Supplies). Use in FSS solicitations and contracts for supplies, except vehicles.

(32) 552.238-108, Spare Parts Kit. Use only in FSS solicitations and contracts for products

requiring spare part kits. This information is to be specified at the order level.

(33) [552.238-109](#), Authentication Supplies and Services. Use in Federal Supply Schedule 70 solicitations only, and only contracts awarded Special Item Numbers (SINs) associated with the Homeland Security Presidential Directive 12 (HSPD-12).

(34) [552.238-110](#), Commercial Satellite Communication (COMSATCOM) Services. Use only in FSS solicitations and contracts for COMSATCOM services.

(35) [552.238-111](#), Environmental Protection Agency Registration Requirement. Use only in FSS solicitations and contracts for supplies when products may require registration with the Environmental Protection Agency.

(36) [552.238-116](#), Option to Extend the Term of the FSS Contract. Use in FSS solicitations and contracts when appropriate.

(e) Insert the following fill-in information within the blank of paragraph (d) of FAR clause [52.216-22](#), Indefinite Quantity: “the completion of customer order, including options, 60 months following the expiration of the FSS contract ordering period”.

Subpart 538.70 - Purchasing by Non-Federal Entities

538.7000 Scope of subpart.

This subpart prescribes policies and procedures that implement statutory provisions authorizing non-federal organizations to use—

- (a) Federal Supply Schedule 70;
- (b) The Consolidated Schedule contracts containing information technology Special Item Numbers (SINs);
- (c) Federal Supply Schedule 84; and
- (d) Other Federal Supply Schedules as authorized in this subpart.

538.7001 Definitions

“Ordering activity” (also called “ordering agency” and “ordering office”) means an eligible ordering activity (see [552.238-112](#)) authorized to place orders under Federal Supply Schedule contracts.

“Preparedness” means actions that may include, but are not limited to planning, resourcing, training, exercising, and organizing to build, sustain, and improve operational disaster response capabilities. Preparedness also includes the process of identifying the personnel, training, and equipment needed for a wide range of potential incidents, and developing jurisdiction-specific plans for delivering capabilities when needed for an incident.

“Recovery” means actions including, but not limited to, the development, coordination, and execution of service- and site-restoration plans; the reconstitution of Government operations and

services; individual, private-sector, nongovernmental, and public-assistance programs to provide housing and to promote restoration; long-term care and treatment of affected persons; additional measures for social, political, environmental, and economic restoration; evaluation of the incident to identify lessons learned; post-incident reporting; and development of initiatives to mitigate the effects of future incidents.

“Relief” means disaster “response” and “recovery.” Please see full definitions for these terms.

“Response” means immediate actions taken during a disaster, or in its immediate aftermath, in order to save lives, protect property and the environment, and meet basic human needs. Response also includes the execution of emergency plans and actions to support short-term recovery.

“Schedule 70,” as used in this subpart, means Schedule 70 information technology contracts, and Consolidated Products and Services Schedule contracts containing information technology SINS. The Consolidated Products and Services Schedule is a compilation of multiple individual Federal Supply Schedules; therefore, only the SINS that fall under Schedule 70 of the Consolidated Products and Services Schedule will apply to Cooperative Purchasing. No other Schedules, or SINS, containing information technology outside of Schedule 70 SINS, and Consolidated Products and Services Schedule contracts containing Schedule 70 SINS, will apply.

“Schedule 84” means the Federal Supply Schedule for alarm and signal systems, facility management systems, firefighting and rescue equipment, law enforcement and security equipment, marine craft and related equipment, special purpose clothing, and related services (as contained in Federal Supply Classification Code Group 84 or any amended or subsequent version of that Federal supply classification group).

“State and local government entities,” as used in this subpart, means the states of the United States, counties, municipalities, cities, towns, townships, tribal governments, public authorities (including public or Indian housing agencies under the United States Housing Act of 1937), school districts, colleges and other institutions of higher education, council of governments (incorporated or not), regional or interstate government entities, or any agency or instrumentality of the preceding entities (including any local educational agency or institution of higher education), and including legislative and judicial departments. The term does not include contractors of, or grantees of, State or local governments.

(1) “Local educational agency” has the meaning given that term in section 8013 of the Elementary and Secondary Education Act of 1965 ([20 U.S.C.7713](#)).

(2) “Institution of higher education” has the meaning given that term in section 101(a) of the Higher Education Act of 1965 ([20 U.S.C.1001\(a\)](#)).

(3) “Tribal government” means—

(i) The governing body of any Indian tribe, band, nation, or other organized group or community located in the continental United States (excluding the State of Alaska) that is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians; and

(ii) Any Alaska Native regional or village corporation established pursuant to the Alaska Native Claims Settlement Act ([43 U.S.C.1601 et seq.](#)).

538.7002 General.

(a) 40 U.S.C. 501, (the Act) authorizes the Administrator of General Services to procure and supply personal property and nonpersonal services for the use of Executive agencies. Under 40 U.S.C. 502, the goods and services available to executive agencies are also available to mixed ownership Government corporations, establishments within the legislative or judicial branches of Government (excepting the Senate, House of Representatives, Architect of the Capitol, and any activities under the direction of the Architect of the Capitol), the District of Columbia, and Qualified Non-profit Agencies.

(b) Section 211 of the E-Government Act of 2002 amends 40 U.S.C. 502 to authorize the Administrator of General Services to provide for use of certain Federal Supply Schedules of the GSA by a State or local government, which includes any State, local, regional, or tribal government, or any instrumentality thereof (including any local educational agency or institution of higher education).

(c) Pub. L. 110-248, The Local Preparedness Acquisition Act, authorizes the Administrator of General Services to provide for the use by state or local governments of Federal Supply Schedules of the General Services Administration (GSA) for alarm and signal systems, facility management systems, firefighting and rescue equipment, law enforcement and security equipment, marine craft and related equipment, special purpose clothing, and related services (as contained in Schedule 84).

(d) Pub. L. 109-364, the John Warner National Defense Authorization Act for Fiscal Year 2007 authorizing state and local governments, to use Federal Supply Schedule contracts to purchase products and services to be used to facilitate recovery from a major disaster declared by the President under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.) or to facilitate for recovery from terrorism or nuclear, biological, chemical, or radiological attack. Public Law 111-263, the Federal Supply Schedules Usage Act of 2010 authorizing state and local governments to use Federal Supply Schedule contracts to purchase products and services to be used to facilitate disaster preparedness or response.

(e) Public Law 111-263, the Federal Supply Schedules Usage Act of 2010, authorizes the American National Red Cross to use Federal Supply Schedule contracts to purchase goods or services to be used in furtherance of its purposes as set forth in its federal charter (36 U.S.C. 300102).

(f) Public Law 111-263, the Federal Supply Schedules Usage Act of 2010, authorizes other qualified organizations to use Federal Supply Schedule contracts to purchase products and services in furtherance of purposes determined to be appropriate to facilitate emergency preparedness and disaster relief and set forth in guidance by the Administrator of General Services, in consultation with the Administrator of the Federal Emergency Management Agency. Other qualified organizations must meet the requirements of 42 U.S.C. 5152.

(g) A listing of the participating contractors and SINs for the goods and services that are available under these authorized Federal Supply Schedules, is available in GSA's e-Library at www.gsa.gov/elibrary.

538.7003 Policy.

Preparing solicitations when schedules are open to eligible non-federal entities. When opening

authorized Federal Supply Schedules for use by eligible non-federal entities, the contracting officer must make minor modifications to certain Federal Acquisition Regulation and GSAM provisions and clauses in order to make clear distinctions between the rights and responsibilities of the U.S. Government in its management and regulatory capacity pursuant to which it awards schedule contracts and fulfills associated Federal requirements versus the rights and responsibilities of eligible ordering activities placing orders to fulfill agency needs. Accordingly, the contracting officer is authorized to modify the following FAR provisions/clauses to delete “Government” or similar language referring to the U.S. Government and substitute “ordering activity” or similar language when preparing solicitations and contracts to be awarded under authorized Federal Supply Schedules. When such changes are made, the word “(DEVIATION)” shall be added at the end of the title of the provision or clause. These clauses include but are not limited to:

- (a) 52.212-4, Contract Terms and Conditions—Commercial Products and Commercial Services.
- (b) 52.216-18, Ordering.
- (c) 52.216-19, Order Limitations.
- (d) 52.229-1, State and Local Taxes.
- (e) 52.229-3, Federal, State, and Local Taxes.
- (f) 52.232-7, Payments Under Time-and-Materials and Labor-Hour Contracts.
- (g) 52.232-17, Interest.
- (h) 52.232-19, Availability of Funds for the Next Fiscal Year.
- (i) 52.232-34, Payment by Electronic Funds Transfer—Other than Central Contractor Registration.
- (j) 52.232-36, Payment by Third Party.
- (k) 52.237-3, Continuity of Services.
- (l) 52.246-4, Inspection of Services-Fixed Price.
- (m) 52.246-6, Inspection—Time-and-Material and Labor-Hour.
- (n) 52.247-34, F.O.B. Destination.
- (o) 52.247-38, F.O.B. Inland Carrier Point of Exportation.

538.7004 Solicitation provisions and contract clauses.

- (a) The contracting officer shall insert the clause at [552.238-112](#) , Definition (Federal Supply Schedules)-Non-Federal Entity, in solicitations and contracts for all Federal Supply Schedules.
- (b) The contracting officer shall insert the clause at [552.238-113](#) , Scope of Contract (Eligible Ordering Activities), in solicitations and contracts for all Federal Supply Schedules.
- (c) The contracting officer shall insert the clause at [552.238-114](#) , Use of Federal Supply

Schedule Contracts by Non-Federal Entities, in solicitations and contracts for all Federal Supply Schedules.

(d) See [552.101-70](#) for authorized FAR deviations.

Subpart 538.71 - [Reserved]

Subpart 538.72 - Order-level Materials

538.7200 Definitions.

As used in this subpart—

“Order-level materials” means supplies and/or services acquired in direct support of an individual task or delivery order placed against an authorized (see GSAR [538.7201\(b\)](#)) Federal Supply Schedule (FSS) contract or FSS Blanket Purchase Agreement (BPA)), when the supplies and/or services are not known at the time of Schedule contract or FSS BPA award. The prices of order-level materials are not established in the FSS contract or FSS BPA. However, order-level materials are purchased under the authority of the FSS program, pursuant to [41 U.S.C. 152\(3\)](#), and are not open market items, which are discussed in FAR 8.402(f).

538.7201 General.

(a) *Authority.* In accordance with GSA's authority under FAR 8.403(b), GSA has established special ordering procedures for the incorporation of order-level materials into the Federal Supply Schedule program.

(b) *List.* The list of Federal Supply Schedule subcategories authorized to allow for order-level materials is available at <https://www.gsa.gov/olm>.

(c) *Changes.* HCAs may request changes to the list in paragraph (b) by submitting GSA Form 1649, Notification of Federal Supply Schedule Improvement, for approval by the Assistant Commissioner of the FAS Office of Policy and Compliance. Requests, submitted via GSA Form 1649 or otherwise, to add this authority to a Federal Supply Schedule must address the need for the authority, including why it is impractical to price the items at the contract level, and a description of the market research conducted (see FAR 10.002(e)). The FAS Office of Policy and Compliance should notify the SPE of changes to the list in paragraph (b) via email sent to spe.request@gsa.gov.

538.7202 Awarding Order-Level Materials in FSS contracts.

(a) Federal Supply Schedules authorizing order-level materials must include a separate Special Item Number (SIN) with the following scope:

(1) Order-level materials are supplies or services acquired in direct support of a contractor's offerings and which are unknown before a task or delivery order is placed against the FSS contract

or FSS BPA); including, direct materials, subcontracts for supplies and incidental services for which there is not a labor category specified in the FSS contract, other direct costs, and indirect costs. Order-level materials are subject to a negotiated price ceiling that the contractor exceeds at its own risk.

(2) Items awarded under ancillary supplies or other direct cost (ODC) SINs are not order-level materials.

(b) The order-level materials SIN cannot be the only awarded SIN on a FSS contract or FSS BPA.

(c) Price Pricing analysis for order-level materials is not conducted when awarding the Federal Supply Schedule FSS contract or FSS BPA; therefore, sections [538.270](#) and [538.271](#) do not apply to order-level materials.

538.7203 Administering Order-Level Materials in FSS contracts.

(a) Federal Supply Schedule Contracting Officers should consider requesting the assistance of members of the acquisition team responsible for contract administration functions (e.g., Administrative Contracting Officers, Industrial Operations Analysts) when evaluating the use of order-level materials at the FSS contract-level. Task or delivery orders including order-level materials placed against FSS contracts should be monitored to ensure special ordering procedures are being followed at GSAR [552.238-115 Special Ordering Procedures for the Acquisition of Order-Level Materials](#).(d).

(b) Except as stated in [552.238-115 Special Ordering Procedures for the Acquisition of Order-Level Materials](#).(d)(10), all terms and conditions that otherwise apply to the FSS contract also apply to order-level materials. For example, order-level materials must comply with the Trade Agreements Act clauses, the Environmental Attributes clause, and the Industrial Funding Fee and Sales Reporting clauses.

538.7204 Contract clauses.

(a) Use FAR clause 52.212-4 Alternate I in all Federal Supply Schedules authorized for the acquisition of order-level materials (see [538.7201\(b\)](#)). Use the following language for the clause fill-in—

(1) Insert “Each order must list separately subcontracts for services excluded from the FSS Hourly Rates” in paragraph (e)(1)(iii)(D).

(2) Insert “Each order must list separately the elements of other direct costs for that order” in paragraph (i)(1)(ii)(D)(1).

(3) Insert “Each order must list separately the fixed amount for the indirect costs and payment schedule; if no indirect costs are approved,” insert “None” in (i)(1)(ii)(D)(2).

(b) Insert the clause at [552.238-115](#), Special Ordering Procedures for the Acquisition of Order-Level Materials, in FSS solicitations and contracts authorized to allow for order-level materials.